

JASON PHASUK,)
)
Plaintiff,)
)
)
)
v.)
) Case No.: 20-cv-384
JAMES DIXON)
)
And)
)
OLD DOMINION FREIGHT LINE, INC.,)
)
Defendants.)

To: The Honorable Judges for the United States District Court
For the Western District of Missouri, and

COMES NOW defendant Old Dominion Freight Line, Inc. (“ODFL”), by and through its attorneys of record, Baker Sterchi Cowden & Rice, LLC, of Kansas City, Missouri, and pursuant to 28 U.S.C. §§1441 and 1446, removes this action from the Circuit Court of Jackson County, Missouri at Independence, to the United States District Court for the Western District of Missouri, Western Division.

1. This is an action in which the District Courts of the United States have been given original jurisdiction under the provisions of 28 U.S.C. §1332, in that diversity of citizenship exists between plaintiff and defendants, and the amount in controversy, upon information and

belief, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000) exclusive of interests and costs.

2. On March 26, 2020, Plaintiff Jason Phasuk filed a Petition in the Circuit Court for Jackson County, Missouri at Independence, captioned *Jason Phasuk v. James Dixon and Old Dominion Freight Line, Inc.*, Case No. 2016-CV10019 (the “State Court Action”).

3. Old Dominion Freight Line, Inc. was served in the State Court Action on April 16, 2020 by way of service on The Corporation Company, the registered agent for Old Dominion Freight Line, Inc. This Notice is filed 30 days after service upon this defendant.

4. Defendant James Dixon, upon information and belief, has not yet been served with process in the State Court action.

5. Thirty (30) days have not expired since any defendant received copies of the initial pleading setting forth plaintiff’s claims for relief as ODFL was served on April 16, 2020.

6. Based on the Petition for Damages filed by plaintiff, defendant ODFL reasonably believes and states that plaintiff is now, and was at the time of the commencement of this action, a resident and citizen of the State of Missouri. See Petition, Exhibit A.¶ 1.

7. Old Dominion Freight Line, Inc. is now and was at the time of the commencement of this action, a corporation organized in the state of Virginia with its principal place of business in North Carolina.

8. Upon information and belief, defendant James Dixon is now and was at the time of the commencement of this action, a citizen and resident of the state of Tennessee.

9. The amount in controversy regarding plaintiff’s claims for damages is not specifically pled in plaintiff’s Petition for Damages, however, plaintiff claims that he sustained personal injuries to his body, including but not limited to, head injury, neck injury, shoulder

injury and associated conditions from the injury, incurred medical expenses, wage loss and has suffered pain, discomfort and permanent disability from his injuries. For all of these reasons, defendant ODFL reasonably believes that more than \$75,000.00 is in controversy, and therefore the amount in controversy requirement of 28 U.S.C. § 1332(a) is satisfied.

10. Further, on May 5, 2020, plaintiff's counsel was sent a proposed Stipulation Regarding Claimed Damages in which plaintiff was requested to stipulate by the close of business on May 12, 2020, that the amount of damages claimed in this action including, but not limited to, personal injuries (mental or physical), pain and suffering, and any and all damages, whether compensatory, consequential, punitive, or otherwise, do not presently, and will not in the future (including at the time of trial), exceed \$75,000 exclusive of interest and costs. See Exhibit B, attached hereto. To date, plaintiff has not responded. For all of these reasons, defendant ODFL believes that more than \$75,000.00 is in controversy, and, therefore, the amount in controversy requirement of 28 U.S.C. § 1332(a) is satisfied.

11. The United States District Court for the Western District of Missouri, Western Division is the appropriate court for filing a Notice of Removal from the Circuit Court of Jackson County, Missouri at Independence, where the action is pending. Accordingly, defendant ODFL seeks to remove this action to the United States District Court for the Western District of Missouri, Western Division.

12. Pursuant to 28 U.S.C. § 1446(a), copies of all pleadings, process and orders served upon this defendant in this action are attached hereto and marked as Exhibit A.

13. Pursuant to 28 U.S.C. § 1446(d), defendant ODFL has served a copy of this Notice of Removal upon all adverse parties contemporaneously with the filing of this Notice of Removal.

15. Pursuant to 28 U.S.C. §1446(d), defendant ODFL has served a copy of this Notice of Removal on the Clerk of the Circuit Court of Jackson County, Missouri at Independence.

16. Pursuant to U.S.C. §1411(a), defendant ODFL hereby demands a trial by jury on all issues so triable.

WHEREFORE, defendant Old Dominion Freight Line, Inc. removes this action from the Circuit Court of Jackson County, Missouri at Independence, to the United States District Court for the Western District of Missouri, Western Division.

Respectfully Submitted,

BAKER STERCHI COWDEN & RICE, LLC

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ATTORNEYS FOR DEFENDANT

OLD DOMINION FREIGHT LINE, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2020, a copy of the foregoing was electronically filed using the Court's CM/ECF system, and served electronically and/or by U.S. Mail, postage prepaid, to the following counsel of record:

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/s/ Shawn M. Rogers